

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

South Duff TIC 1-8, 10, 12-25 LLC,
Petitioner-Appellant,

v.

City of Ames Board of Review,
Respondent-Appellee.

ORDER

Docket Nos. 09-100-0304 to 0496

On March 30, 2010, the above-captioned appeals came on for a consolidated hearing before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, South Duff TIC 1-8, 10, 12-25 LLC, (South Duff) requested a hearing and submitted evidence in support of its petitions. Eugene Hendrickson of RubinBrown, St. Louis, Missouri, represented the appellant at hearing. The Board of Review designated City Attorney Douglas Marek as its legal representative and submitted documentary evidence in support of its decisions. A digital record of the proceeding was made. The Appeal Board having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

South Duff, owner of properties located at 416 Billy Sunday Road, 510 Billy Sunday Road, 528 Billy Sunday Road, 614 Billy Sunday Road, and 616 Billy Sunday Road, Ames, Story County, Iowa, appeals from the Ames City Board of Review decisions reassessing the subject properties. The properties, known collectively as South Duff Community Park, consist of 189 residential, garden-style condominium units, four commercial units, garages, and common areas. The value of the land, common areas, and garages are apportioned to each condominium according to the fractional ownership recorded in the horizontal property regime. The five, three-story buildings are located on a

13.43 acre site south of the Iowa State University Campus (ISU). The buildings were built in phases between 2000 and 2005. The parcels are located in an area of mixed multi-family and single-family residential and commercial development. All units have common ownership, are managed as a whole, are not offered for sale individually, and the residential units are rented mostly to university students. The parcels were purchased by the current owner in 2005 for a total of \$19,650,000. The breakdown of unit sizes by building address is as follows:

Billy Sunday Rd	Bed/Bath	Bed/Bath	Bed/Bath	Bed/Bath	Bed/Bath	Bed/Bath	Bed/Bath	Bed/Bath	Comm.	Total
Building No.	1/1	2/1	2/2	3/2	3/3	4/2	4/3	5/3	Units	
416	24	0	10	0	6	0	0	5	1	46
510	16	0	13	0	9	0	0	6	0	44
528	0	6	0	14	0	0	11	0	1	32
614	0	6	0	14	0	3	8	0	1	32
616	7	6	0	14	0	3	8	0	1	39
	47	18	23	42	15	6	27	11	4	193

With the exception of parcels 09-14-276-205, 09-14-277-160, 09-14-277-233, and 09-14-277-625, which are classified as commercial, the remaining parcels were classified as residential on the initial assessment of January 1, 2009, and valued collectively at \$18,000,000. South Duff protested to the Board of Review that the properties were assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and that there had been a downward change in value under sections 441.37(1) and 441.35(3). It claimed the actual combined parcels' value was \$13,315,000 and requested a total of \$4,685,000 in relief. The Board of Review granted the petition, in part, and reduced the total assessed value of all parcels to \$17,000,000, applying the \$1,000,000 reduction to the residential parcels only.

South Duff then appealed to this Board and claimed the properties were assessed for more than authorized by law and that there was a downward change in value. We note South Duff's claim of downward change in value in an assessment year is akin to a challenge on market value and a ground it has already pled before the Board of Review. *See Dedham Co-op. Ass'n v. Carroll County Bd. of*

Review, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, this Board will only consider the claim of over-assessment.

The following chart compares the initial assessed values, Board of Review values, and the values South Duff claims before this Board.

Docket Number	Parcel Number	Property Address	Assessed Value	LBR Value	Appellant Value ¹
09-100-0304	09-14-276-205	416 Billy Sunday Rd Unit # 100	\$422,300.00	\$422,300.00	\$360,000.00
09-100-0305	09-14-276-210	416 Billy Sunday Rd Unit # 101	\$109,500.00	\$102,600.00	\$87,500.00
09-100-0306	09-14-276-215	416 Billy Sunday Rd Unit # 102	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0307	09-14-276-220	416 Billy Sunday Rd Unit # 103	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0308	09-14-276-225	416 Billy Sunday Rd Unit # 104	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0309	09-14-276-230	416 Billy Sunday Rd Unit # 105	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0310	09-14-276-235	416 Billy Sunday Rd Unit # 106	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0311	09-14-276-240	416 Billy Sunday Rd Unit # 107	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0312	09-14-276-245	416 Billy Sunday Rd Unit # 108	\$109,500.00	\$102,500.00	\$87,400.00
09-100-0313	09-14-276-250	416 Billy Sunday Rd Unit # 109	\$132,100.00	\$123,700.00	\$105,500.00
09-100-0314	09-14-276-255	416 Billy Sunday Rd Unit # 110	\$39,000.00	\$36,700.00	\$31,300.00
09-100-0315	09-14-276-260	416 Billy Sunday Rd Unit # 111	\$39,000.00	\$36,700.00	\$31,300.00
09-100-0316	09-14-276-265	416 Billy Sunday Rd Unit # 112	\$39,000.00	\$36,700.00	\$31,300.00
09-100-0317	09-14-276-270	416 Billy Sunday Rd Unit # 113	\$39,000.00	\$36,700.00	\$31,300.00
09-100-0318	09-14-276-275	416 Billy Sunday Rd Unit # 201	\$109,500.00	\$102,500.00	\$87,400.00
09-100-0319	09-14-276-280	416 Billy Sunday Rd Unit # 202	\$132,100.00	\$123,700.00	\$105,500.00
09-100-0320	09-14-276-285	416 Billy Sunday Rd Unit # 203	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0321	09-14-276-290	416 Billy Sunday Rd Unit # 204	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0322	09-14-276-295	416 Billy Sunday Rd Unit # 205	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0323	09-14-276-305	416 Billy Sunday Rd Unit # 206	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0324	09-14-276-310	416 Billy Sunday Rd Unit # 207	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0325	09-14-276-315	416 Billy Sunday Rd Unit # 208	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0326	09-14-276-320	416 Billy Sunday Rd Unit # 209	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0327	09-14-276-325	416 Billy Sunday Rd Unit # 210	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0328	09-14-276-330	416 Billy Sunday Rd Unit # 211	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0329	09-14-276-335	416 Billy Sunday Rd Unit # 212	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0330	09-14-276-340	416 Billy Sunday Rd Unit # 213	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0331	09-14-276-345	416 Billy Sunday Rd Unit # 214	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0332	09-14-276-350	416 Billy Sunday Rd Unit # 215	\$109,500.00	\$102,500.00	\$87,400.00
09-100-0333	09-14-276-355	416 Billy Sunday Rd Unit # 216	\$132,100.00	\$123,700.00	\$105,500.00
09-100-0334	09-14-276-360	416 Billy Sunday Rd Unit # 301	\$109,500.00	\$102,500.00	\$87,400.00
09-100-0335	09-14-276-365	416 Billy Sunday Rd Unit # 302	\$132,100.00	\$123,800.00	\$105,500.00
09-100-0336	09-14-276-370	416 Billy Sunday Rd Unit # 303	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0337	09-14-276-375	416 Billy Sunday Rd Unit # 304	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0338	09-14-276-380	416 Billy Sunday Rd Unit # 305	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0339	09-14-276-385	416 Billy Sunday Rd Unit # 306	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0340	09-14-276-390	416 Billy Sunday Rd Unit # 307	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0341	09-14-276-395	416 Billy Sunday Rd Unit # 308	\$73,600.00	\$69,100.00	\$58,900.00

¹ The appellant asserts different property values than it originally contended in its PAAB petition.

Docket Number	Parcel Number	Property Address	Assessed Value	LBR Value	Appellant Value
09-100-0342	09-14-276-405	416 Billy Sunday Rd Unit #309	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0343	09-14-276-410	416 Billy Sunday Rd Unit #310	\$73,600.00	\$69,100.00	\$58,900.00
09-100-0344	09-14-276-415	416 Billy Sunday Rd Unit #311	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0345	09-14-276-420	416 Billy Sunday Rd Unit #312	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0346	09-14-276-425	416 Billy Sunday Rd Unit #313	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0347	09-14-276-430	416 Billy Sunday Rd Unit #314	\$49,000.00	\$45,900.00	\$39,100.00
09-100-0348	09-14-276-435	416 Billy Sunday Rd Unit #315	\$109,500.00	\$102,500.00	\$87,400.00
09-100-0349	09-14-276-440	416 Billy Sunday Rd Unit #316	\$132,100.00	\$123,700.00	\$105,500.00
09-100-0350	09-14-276-600	510 Billy Sunday Rd Unit #101	\$110,500.00	\$104,200.00	\$88,800.00
09-100-0351	09-14-276-605	510 Billy Sunday Rd Unit #102	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0352	09-14-276-610	510 Billy Sunday Rd Unit #103	\$104,700.00	\$98,900.00	\$84,300.00
09-100-0353	09-14-276-615	510 Billy Sunday Rd Unit #104	\$75,400.00	\$71,300.00	\$60,800.00
09-100-0354	09-14-276-620	510 Billy Sunday Rd Unit #105	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0355	09-14-276-625	510 Billy Sunday Rd Unit #106	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0356	09-14-276-630	510 Billy Sunday Rd Unit #107	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0357	09-14-276-635	510 Billy Sunday Rd Unit #108	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0358	09-14-276-640	510 Billy Sunday Rd Unit #109	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0359	09-14-276-645	510 Billy Sunday Rd Unit #110	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0360	09-14-276-650	510 Billy Sunday Rd Unit #111	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0361	09-14-276-655	510 Billy Sunday Rd Unit #112	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0362	09-14-276-660	510 Billy Sunday Rd Unit #113	\$110,500.00	\$104,100.00	\$88,700.00
09-100-0363	09-14-276-665	510 Billy Sunday Rd Unit #114	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0364	09-14-276-670	510 Billy Sunday Rd Unit #201	\$110,500.00	\$104,100.00	\$88,700.00
09-100-0365	09-14-276-675	510 Billy Sunday Rd Unit #202	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0366	09-14-276-680	510 Billy Sunday Rd Unit #203	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0367	09-14-276-685	510 Billy Sunday Rd Unit #204	\$104,700.00	\$98,900.00	\$84,300.00
09-100-0368	09-14-276-690	510 Billy Sunday Rd Unit #205	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0369	09-14-276-695	510 Billy Sunday Rd Unit #206	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0370	09-14-276-700	510 Billy Sunday Rd Unit #207	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0371	09-14-276-705	510 Billy Sunday Rd Unit #208	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0372	09-14-276-710	510 Billy Sunday Rd Unit #209	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0373	09-14-276-715	510 Billy Sunday Rd Unit #210	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0374	09-14-276-720	510 Billy Sunday Rd Unit #211	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0375	09-14-276-725	510 Billy Sunday Rd Unit #212	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0376	09-14-276-730	510 Billy Sunday Rd Unit #213	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0377	09-14-276-735	510 Billy Sunday Rd Unit #214	\$110,500.00	\$104,100.00	\$88,700.00
09-100-0378	09-14-276-740	510 Billy Sunday Rd Unit #215	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0379	09-14-276-745	510 Billy Sunday Rd Unit #301	\$110,500.00	\$104,100.00	\$88,700.00
09-100-0380	09-14-276-750	510 Billy Sunday Rd Unit #302	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0381	09-14-276-755	510 Billy Sunday Rd Unit #303	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0382	09-14-276-760	510 Billy Sunday Rd Unit #304	\$104,700.00	\$98,900.00	\$84,300.00
09-100-0383	09-14-276-765	510 Billy Sunday Rd Unit #305	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0384	09-14-276-770	510 Billy Sunday Rd Unit #306	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0385	09-14-276-775	510 Billy Sunday Rd Unit #307	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0386	09-14-276-780	510 Billy Sunday Rd Unit #308	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0387	09-14-276-785	510 Billy Sunday Rd Unit #309	\$75,600.00	\$71,500.00	\$61,000.00
09-100-0388	09-14-276-790	510 Billy Sunday Rd Unit #310	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0389	09-14-276-795	510 Billy Sunday Rd Unit #311	\$49,800.00	\$47,000.00	\$40,100.00

Docket Number	Parcel Number	Property Address	Assessed Value	LBR Value	Appellant Value
09-100-0390	09-14-276-800	510 Billy Sunday Rd Unit #312	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0391	09-14-276-805	510 Billy Sunday Rd Unit #313	\$49,800.00	\$47,000.00	\$40,100.00
09-100-0392	09-14-276-810	510 Billy Sunday Rd Unit #314	\$110,500.00	\$104,100.00	\$88,700.00
09-100-0393	09-14-276-815	510 Billy Sunday Rd Unit #315	\$132,900.00	\$125,200.00	\$106,700.00
09-100-0394	09-14-277-160	528 Billy Sunday Rd Unit COM	\$565,000.00	\$565,000.00	\$481,700.00
09-100-0395	09-14-277-005	528 Billy Sunday Rd Unit #101	\$114,500.00	\$107,000.00	\$91,200.00
09-100-0396	09-14-277-010	528 Billy Sunday Rd Unit #102	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0397	09-14-277-015	528 Billy Sunday Rd Unit #103	\$94,200.00	\$87,900.00	\$74,900.00
09-100-0398	09-14-277-020	528 Billy Sunday Rd Unit #104	\$94,200.00	\$87,900.00	\$74,900.00
09-100-0399	09-14-277-025	528 Billy Sunday Rd Unit #105	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0400	09-14-277-030	528 Billy Sunday Rd Unit #106	\$114,700.00	\$107,200.00	\$91,400.00
09-100-0401	09-14-277-035	528 Billy Sunday Rd Unit #107	\$115,000.00	\$107,400.00	\$91,600.00
09-100-0402	09-14-277-040	528 Billy Sunday Rd Unit #201	\$114,700.00	\$107,100.00	\$91,300.00
09-100-0403	09-14-277-045	528 Billy Sunday Rd Unit #202	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0404	09-14-277-050	528 Billy Sunday Rd Unit #203	\$94,000.00	\$87,700.00	\$74,800.00
09-100-0405	09-14-277-055	528 Billy Sunday Rd Unit #204	\$94,000.00	\$87,700.00	\$74,800.00
09-100-0406	09-14-277-060	528 Billy Sunday Rd Unit #205	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0407	09-14-277-065	528 Billy Sunday Rd Unit #206	\$114,700.00	\$107,100.00	\$91,300.00
09-100-0408	09-14-277-070	528 Billy Sunday Rd Unit #207	\$115,000.00	\$107,400.00	\$91,600.00
09-100-0409	09-14-277-075	528 Billy Sunday Rd Unit #208	\$90,300.00	\$84,200.00	\$71,800.00
09-100-0410	09-14-277-080	528 Billy Sunday Rd Unit #209	\$95,400.00	\$89,000.00	\$75,900.00
09-100-0411	09-14-277-085	528 Billy Sunday Rd Unit #210	\$95,300.00	\$88,900.00	\$75,800.00
09-100-0412	09-14-277-090	528 Billy Sunday Rd Unit #211	\$90,300.00	\$84,200.00	\$71,800.00
09-100-0413	09-14-277-095	528 Billy Sunday Rd Unit #212	\$115,000.00	\$107,400.00	\$91,600.00
09-100-0414	09-14-277-100	528 Billy Sunday Rd Unit #301	\$114,700.00	\$107,100.00	\$91,300.00
09-100-0415	09-14-277-105	528 Billy Sunday Rd Unit #302	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0416	09-14-277-110	528 Billy Sunday Rd Unit #303	\$94,000.00	\$87,700.00	\$74,800.00
09-100-0417	09-14-277-115	528 Billy Sunday Rd Unit #304	\$94,000.00	\$87,700.00	\$74,800.00
09-100-0418	09-14-277-120	528 Billy Sunday Rd Unit #305	\$67,900.00	\$63,100.00	\$53,800.00
09-100-0419	09-14-277-125	528 Billy Sunday Rd Unit #306	\$114,700.00	\$107,100.00	\$91,300.00
09-100-0420	09-14-277-130	528 Billy Sunday Rd Unit #307	\$115,000.00	\$107,400.00	\$91,600.00
09-100-0421	09-14-277-135	528 Billy Sunday Rd Unit #308	\$90,300.00	\$84,200.00	\$71,800.00
09-100-0422	09-14-277-140	528 Billy Sunday Rd Unit #309	\$95,400.00	\$89,000.00	\$75,900.00
09-100-0423	09-14-277-145	528 Billy Sunday Rd Unit #310	\$95,300.00	\$88,900.00	\$75,800.00
09-100-0424	09-14-277-150	528 Billy Sunday Rd Unit #311	\$90,300.00	\$84,200.00	\$71,800.00
09-100-0425	09-14-277-155	528 Billy Sunday Rd Unit #312	\$115,000.00	\$107,400.00	\$91,600.00
09-100-0426	09-14-277-200	614 Billy Sunday Rd Unit #101	\$115,400.00	\$108,200.00	\$92,200.00
09-100-0427	09-14-277-205	614 Billy Sunday Rd Unit #102	\$68,700.00	\$64,200.00	\$54,700.00
09-100-0428	09-14-277-210	614 Billy Sunday Rd Unit #103	\$95,100.00	\$89,100.00	\$76,000.00
09-100-0429	09-14-277-215	614 Billy Sunday Rd Unit #104	\$95,100.00	\$89,100.00	\$76,000.00
09-100-0430	09-14-277-220	614 Billy Sunday Rd Unit #105	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0431	09-14-277-225	614 Billy Sunday Rd Unit #106	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0432	09-14-277-230	614 Billy Sunday Rd Unit #107	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0433	09-14-277-233	614 Billy Sunday Rd Unit #200	\$648,900.00	\$648,900.00	\$553,200.00
09-100-0434	09-14-277-235	614 Billy Sunday Rd Unit #201	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0435	09-14-277-240	614 Billy Sunday Rd Unit #202	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0436	09-14-277-245	614 Billy Sunday Rd Unit #203	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0437	09-14-277-250	614 Billy Sunday Rd Unit #204	\$94,900.00	\$88,900.00	\$75,800.00

Docket Number	Parcel Number	Property Address	Assessed Value	LBR Value	Appellant Value
09-100-0438	09-14-277-255	614 Billy Sunday Rd Unit #205	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0439	09-14-277-260	614 Billy Sunday Rd Unit #206	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0440	09-14-277-265	614 Billy Sunday Rd Unit #207	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0441	09-14-277-270	614 Billy Sunday Rd Unit #208	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0442	09-14-277-275	614 Billy Sunday Rd Unit #209	\$96,300.00	\$90,200.00	\$76,900.00
09-100-0443	09-14-277-280	614 Billy Sunday Rd Unit #210	\$96,200.00	\$90,100.00	\$76,800.00
09-100-0444	09-14-277-285	614 Billy Sunday Rd Unit #211	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0445	09-14-277-290	614 Billy Sunday Rd Unit #212	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0446	09-14-277-295	614 Billy Sunday Rd Unit #301	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0447	09-14-277-300	614 Billy Sunday Rd Unit #302	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0448	09-14-277-305	614 Billy Sunday Rd Unit #303	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0449	09-14-277-310	614 Billy Sunday Rd Unit #304	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0450	09-14-277-315	614 Billy Sunday Rd Unit #305	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0451	09-14-277-320	614 Billy Sunday Rd Unit #306	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0452	09-14-277-325	614 Billy Sunday Rd Unit #307	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0453	09-14-277-330	614 Billy Sunday Rd Unit #308	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0454	09-14-277-335	614 Billy Sunday Rd Unit #309	\$96,300.00	\$90,200.00	\$76,900.00
09-100-0455	09-14-277-340	614 Billy Sunday Rd Unit #310	\$96,200.00	\$90,100.00	\$76,800.00
09-100-0456	09-14-277-345	614 Billy Sunday Rd Unit #311	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0457	09-14-277-350	614 Billy Sunday Rd Unit #312	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0458	09-14-277-625	616 Billy Sunday Rd Unit #100	\$330,700.00	\$330,700.00	\$281,900.00
09-100-0459	09-14-277-355	616 Billy Sunday Rd Unit #101	\$115,400.00	\$108,200.00	\$92,200.00
09-100-0460	09-14-277-360	616 Billy Sunday Rd Unit #102	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0461	09-14-277-365	616 Billy Sunday Rd Unit #103	\$95,100.00	\$89,100.00	\$76,000.00
09-100-0462	09-14-277-370	616 Billy Sunday Rd Unit #104	\$95,100.00	\$89,100.00	\$76,000.00
09-100-0463	09-14-277-375	616 Billy Sunday Rd Unit #105	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0464	09-14-277-380	616 Billy Sunday Rd Unit #106	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0465	09-14-277-385	616 Billy Sunday Rd Unit #107	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0466	09-14-277-590	616 Billy Sunday Rd Unit #108	\$37,300.00	\$35,100.00	\$29,900.00
09-100-0467	09-14-277-595	616 Billy Sunday Rd Unit #109	\$43,000.00	\$40,400.00	\$34,400.00
09-100-0468	09-14-277-600	616 Billy Sunday Rd Unit #110	\$43,000.00	\$40,400.00	\$34,400.00
09-100-0469	09-14-277-605	616 Billy Sunday Rd Unit #111	\$43,000.00	\$40,400.00	\$34,400.00
09-100-0470	09-14-277-610	616 Billy Sunday Rd Unit #112	\$47,800.00	\$44,800.00	\$38,200.00
09-100-0471	09-14-277-615	616 Billy Sunday Rd Unit #113	\$47,800.00	\$44,800.00	\$38,200.00
09-100-0472	09-14-277-620	616 Billy Sunday Rd Unit #114	\$42,700.00	\$40,100.00	\$34,200.00
09-100-0473	09-14-277-390	616 Billy Sunday Rd Unit #201	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0474	09-14-277-395	616 Billy Sunday Rd Unit #202	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0475	09-14-277-400	616 Billy Sunday Rd Unit #203	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0476	09-14-277-405	616 Billy Sunday Rd Unit #204	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0477	09-14-277-410	616 Billy Sunday Rd Unit #205	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0478	09-14-277-415	616 Billy Sunday Rd Unit #206	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0479	09-14-277-420	616 Billy Sunday Rd Unit #207	\$115,800.00	\$108,400.00	\$92,400.00
09-100-0480	09-14-277-425	616 Billy Sunday Rd Unit #208	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0481	09-14-277-430	616 Billy Sunday Rd Unit #209	\$96,300.00	\$90,200.00	\$76,900.00
09-100-0482	09-14-277-435	616 Billy Sunday Rd Unit #210	\$96,200.00	\$90,100.00	\$76,800.00
09-100-0483	09-14-277-440	616 Billy Sunday Rd Unit #211	\$91,100.00	\$85,300.00	\$72,700.00
09-100-0484	09-14-277-445	616 Billy Sunday Rd Unit #212	\$115,800.00	\$108,500.00	\$92,500.00
09-100-0485	09-14-277-450	616 Billy Sunday Rd Unit #301	\$115,600.00	\$108,400.00	\$92,400.00

Docket Number	Parcel Number	Property Address	Assessed Value	LBR Value	Appellant Value
09-100-0486	09-14-277-455	616 Billy Sunday Rd Unit #302	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0487	09-14-277-460	616 Billy Sunday Rd Unit #303	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0488	09-14-277-465	616 Billy Sunday Rd Unit #304	\$94,900.00	\$88,900.00	\$75,800.00
09-100-0489	09-14-277-470	616 Billy Sunday Rd Unit #305	\$68,600.00	\$64,100.00	\$54,600.00
09-100-0490	09-14-277-475	616 Billy Sunday Rd Unit #306	\$115,600.00	\$108,400.00	\$92,400.00
09-100-0491	09-14-277-480	616 Billy Sunday Rd Unit #307	\$115,900.00	\$108,600.00	\$92,600.00
09-100-0492	09-14-277-485	616 Billy Sunday Rd Unit #308	\$91,600.00	\$85,800.00	\$73,100.00
09-100-0493	09-14-277-490	616 Billy Sunday Rd Unit #309	\$96,300.00	\$90,200.00	\$76,900.00
09-100-0494	09-14-277-495	616 Billy Sunday Rd Unit #310	\$96,200.00	\$90,100.00	\$76,800.00
09-100-0495	09-14-277-500	616 Billy Sunday Rd Unit #311	\$91,600.00	\$85,800.00	\$73,100.00
09-100-0496	09-14-277-505	616 Billy Sunday Rd Unit #312	\$115,900.00	\$108,500.00	\$92,500.00
			\$18,000,000.00	\$17,000,000.00	\$14,492,400.00

Eugene Hendrickson, on behalf of South Duff, testified the properties collectively were purchased for \$19,650,000 in 2005. An appraisal and pro forma completed by appraisers Christopher R. Kapler and Michael J. Moynagh of CB Richard Ellis, West Des Moines, valued all properties in the complex at \$19,800,000, when construction was completed and the project stabilized, which supported the purchase price. The appraisal developed all three approaches to value, placing greatest emphasis on the income approach as a reasonable and substantiated value indicator, as it claims market participants are primarily analyzing this type of property based on their income generating capability. Because this appraisal is based on 2005 market conditions, we place little reliance on it.

Hendrickson testified that since the income approach was developed in 2005, the effective gross income has decreased and expenses have increased resulting in a steady decline in net operating income (NOI). He developed a value opinion of \$14,631,000 based on capitalized 2008 NOI and a value of \$14,492,900 based on the three-year average NOI. Hendrickson used a 9.1% overall capitalization rate using the effective tax rate and the Real Estate Research Corporation *Real Estate Report* for the Omaha Metropolitan Area for 4th quarter 2008. He allocated the value to the individual condominium units using the allocation percentages used by the assessor.

Hendrickson used actual contract rent, expenses, management fees, and vacancy rate. Market data was not considered. In Hendrickson's opinion, the complex is not generating as much NOI as the

Ames market generally, therefore actual income data more accurately reflects the value of the properties and can be verified. This assumption contradicts general assessment principles which require consideration of market income, in addition to that of the subject property. INTERNATIONAL ASSOCIATION OF ASSESSING OFFICERS, PROPERTY ASSESSMENT VALUATION 207 (2d ed. 1996). Hendrickson reported an 89.33% occupancy rate for the properties, but was unsure whether this considered the units occupied by management staff as vacant. He did not develop a sales approach to valuation of the subject properties. But South Duff's appraisal included a sales comparison approach. The sales comparison approach offered by South Duff used one sale in Ames and one in Cedar Falls. It also used sales from Nebraska, Mississippi, Illinois, and Missouri. The sales were all in either 2004 or 2005 and one needed a 56% adjustment to be compared. In reviewing the appraisal, the analysis accompanying the sales comparison approach was geared towards deriving capitalization rates to support the income approach to value. We find this sales data less persuasive than the Board of Review's for determining market value as of January 1, 2009.

Paul Overton, Chief Deputy Assessor for the City of Ames, testified on behalf of the Board of Review. He personally inspected the five subject buildings and is knowledgeable about the properties. Overton testified he surveyed approximately 35% to 38% of the property managers in Ames and determined 0% to 4% vacancy rates as of January 1, 2009, whereas the subject properties had a physical occupancy of 89.33% in 2008. A Board of Review exhibit indicates increasing ISU enrollment between 2006 and 2009. Overton reported approximately 200 units are constructed throughout the community per year. He was unaware of the housing rents, vacancy rate, or supply of university-owned campus rental units. Overton testified that in addition to rental rates affecting vacancy, the proximity to transportation, pet policies, and on-site amenities also impact apartment vacancy rates. His recommendation to reduce the 2008 assessment of \$18,000,000 to \$17,000,000 was accepted by the Board of Review.

Bruce R. Gunderson of Carlson, Gunderson & Associates, Inc., Des Moines, completed an appraisal of the properties for the Board of Review in 2008 as evidence in an appeal pending at that time. His final estimated market value retrospectively to January 1, 2008, was \$17,000,000. The Gunderson appraisal was not updated to reflect January 1, 2009, valuations. Gunderson valued the subject properties as a whole, by building, and then allocated the value to individual condominium units. He inspected the units in December 2008, reporting amenities including high-speed internet, satellite television, and stack washer-dryers. There are gas fireplaces in many upper units, covered balconies in upper levels, and concrete patio entrances on the first level. The first and second level units have nine-foot ceilings and the third-floor ceilings are vaulted. According to Gunderson's report, each has a separate water heater, furnace, central air conditioning unit, and is separately metered.

In his land sales analysis, Gunderson indicates that demand for proximity to campus shows the southwest side of Ames is somewhat superior to the subject properties' location and required a slight downward adjustment. He notes some oversupply in the market created by the considerable number of new apartment projects developed. He estimated replacement costs of \$17,401,400 including land, common areas, balconies, and garages based on the *Marshall Valuation Service*. Appliances were excluded.

Gunderson developed the sales approach to value using six sales of condominium complexes in Ames, including the prior sale of the subject properties and projects that are entirely residential, unlike the subject properties which includes commercial units. He adjusted the sales for location, size, age, quality of construction, garages, bath to unit ratio, and other features. Adjusted sales prices ranged from \$64.70 to \$86.84 per square foot. In his opinion, the 2005 sale of the subject properties at \$80.28 per square foot compared to its adjusted sales price of \$71.00 per square foot indicates this purchase was a "high sale." His value conclusion by the sales approach was \$17,100,400.

Gunderson developed the income approach reviewing the annualized contract rent of \$2,169,951 and total gross potential residential and commercial rent, and other income totaling \$2,535,694. He estimated a 10% vacancy factor. Gunderson calculated a blended residential/commercial base capitalization rate of 8% by combining a 7.9% rate for the residential properties and 8.75% rate for the commercial properties and incorporated the tax rates of each property type. His value conclusion was \$16,871,400 by the income method. We find Gunderson's final reconciled value of \$17,000,000 for the complex using the three valuation approaches and as allocated to the individual units, support the assessments.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions must first be considered in arriving at market value. *Id.* If sales are not available or market value “cannot be readily established in that manner,” other factors may be considered in arriving at market value. *Heritage Cablevision v. Board of Review of City of Mason City*, 457 NW2d 594, 597 (Iowa 1990); § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). We find South Duff has failed to show its property was assessed for more than authorized by law. The appraisal submitted as its primary evidence was completed in September 2005. South Duff’s main contention is that income data in the appraisal does not support the current assessment. But before turning to other factors such as income data, the sales comparison approach must be considered. Comparing the sales data, we find the Board of Review’s analysis more persuasive. Although Gunderson’s appraisal considered properties with fewer units, both parties’ sales data needed adjustments. The Gunderson appraisal was completed more recently and considered sales closer to the subject property. The adjusted sales data offered by the Board of Review did not show the property was assessed for more than authorized by law.

Viewing the evidence as a whole, the Appeal Board finds South Duff’s claim the subject properties are assessed for more than is authorized by law is not supported by a preponderance of the evidence. Accordingly, we affirm the January 1, 2009, assessed values of the commercial and residential condominium units included in these appeals as determined by the Board of Review.

IT IS ORDERED that the January 1, 2009, assessments as determined by the City of Ames Board of Review are affirmed.

Dated this 14 day of May 2010.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Member

Karen Oberman
Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-14</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>Jean Campis</u>